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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/630,383 04/10/96 POULETTY

EXAMINER

P	A-55320-2/BI
ART UNIT	PAPER NUMBER

HM22/1004
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DATE MAILED: WADRON, R

1644

10/04/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.
08/630,383

Applicant(s)

Pouletty et al.

Examiner
Ron Schwadron, Ph.D.

Group Art Unit
1644



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-11 and 13 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-11 and 13 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Claims 1-11,13 are under consideration.

2. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-11 are drawn to a method of killing a target cell, classified in Class 424 subclass 193.1.

II. Claim 13 is drawn to a method of reducing the concentration of a soluble target molecule in the blood stream., classified in Class 424 subclass 158.1.

3. The inventions are distinct, each from the other because of the following reasons:

4. Inventions I and II are different methods that use different ingredients to achieve different goals. Invention I is drawn to a method of killing a target cell, while invention II is drawn to a method of reducing the concentration of a soluble target molecule in the blood stream. Invention II uses a conjugate containing an antibody against a soluble molecule not used in the method of invention I. Therefore they are novel and unobvious in view of each other and are patentably distinct.

5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II and Groups I and II have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.

6. If applicant elects Group I, the following species election is required.

This application contains claims directed to the following patentably distinct species of the claimed invention.

The method of claim 1 or 9 which uses a selective moiety wherein the selective moiety is

A)SEC1

B)SEA

C)ExFT

D)TSST1

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E)MIs

F)minor histocompatibility antigen

G)a selective moiety that binds to anti- α gal antibodies (eg. α gal)

H)blood group antigen

I)a portion of a protein vaccine.

These molecules are structurally and functionally distinct.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.


7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

8. Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers should be faxed to Group 1600 at (703) 308-4242.

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9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Monday through Thursday from 7:30 to 6:00. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ms Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1640 receptionist whose telephone number is (703) 308-0196.

Ron Schwadron, Ph.D.
Primary Examiner
Art Unit 1644



RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800 (602)